

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CORTNI MARIE HOLTHAUS,

Case No. 3:25-cv-05257-TMC

Plaintiff,

ORDER DENYING MOTION FOR
EMERGENCY RELIEF

V.

WASHINGTON DEPARTMENT OF
CORRECTIONS et al.,

Defendants.

I. ORDER

A. Plaintiff has not shown that she is entitled to emergency relief.

Plaintiff, Cortni Marie Holthaus, has submitted an emergency motion requesting various forms of relief against the Washington Department of Corrections, Multicare Lacey Emergency Department, Providence St. Peter's Hospital, and Tumwater Police Department. Dkt. 10. On March 25, 2025, Ms. Holthaus submitted a proposed complaint and an application to proceed in forma pauperis (IFP). Dkt. 1. The Court notified Ms. Holthaus of a deficiency in her IFP application, Dkt. 3, and she subsequently paid the filing fee and filed her complaint. Dkt. 4. She then submitted a praecipe to issue summons on April 11, and was notified of filing deficiencies the same day. Dkt. 6; Dkt. 7. She submitted a new praecipe and summonses on April 21. Dkt. 8;

1 Dkt. 9. The same day she moved for protective relief so that she may “stay in [her] own home”
 2 instead of being forced into psychiatric placement. Dkt. 10 at 3. She also requested the Court’s
 3 acknowledgement of “psychiatric abuse concerns[.]” *Id.*

4 Courts consider requests from litigants for the type of urgent relief Ms. Holthaus seeks in
 5 the form of motions for preliminary injunctions and temporary restraining orders (“TRO”).

6 *Granny Goose Foods, Inc. v. Bhd. Of Teamsters and Auto Truck Drivers Loc. No. 70 of Alameda*
 7 *Cty.*, 415 U.S. 423, 439 (1974) (“[Temporary restraining orders] should be restricted to serving
 8 their underlying purpose of preserving the status quo and preventing irreparable harm just so
 9 long as is necessary to hold a hearing, and no longer.”). Most orders for emergency relief restrict
 10 a party from taking a certain action, but TROs can also be mandatory in that they can order a
 11 party to perform an affirmative act or a specific course of conduct. *State of Alabama v. United*
 12 *States*, 304 F.2d 583, 590 (5th Cir. 1962), *aff’d sub nom. Alabama v. United States*, 371 U.S. 37
 13 (1962) (“Mandatory injunctions affirmatively compelling the doing of some act, rather than
 14 merely negatively forbidding continuation of a course of conduct, are a traditional tool of
 15 equity.”). Irreparable harms, as TROs seek to prevent, are injuries “for which there is no
 16 adequate legal remedy.” *See Nat'l Ass'n of Manufacturers v. United States Dep't of Homeland*
 17 *Sec.*, 491 F. Supp. 3d 549, 569 (N.D. Cal. 2020) (citing *East Bay Sanctuary Covenant v. Trump*,
 18 950 F.3d 1242, 1279 (9th Cir. 2020)).

19 The standards that govern temporary restraining orders (“TRO”) are “substantially
 20 similar” to those that govern preliminary injunctions. *Washington v. Trump*, 847 F.3d 1151, 1159
 21 n.3 (9th Cir. 2017). “To obtain a preliminary injunction, a plaintiff must establish: (1) a
 22 likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of
 23 preliminary relief, (3) that the balance of equities favors the plaintiff, and (4) that an injunction is
 24 in the public interest.” *Geo Group, Inc. v. Newsom*, 50 F.4th 745, 753 (9th Cir. 2022) (en banc)

1 (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). The movant must make a
 2 showing for each element of the *Winter* test. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
 3 1135 (9th Cir. 2011).

4 Additional requirements are imposed on TROs that are granted “*ex parte*”, or without
 5 notice to the other party—which is the type of relief Ms. Holthaus seeks here. Under Federal
 6 Rule of Civil Procedure 65(b), “a temporary restraining order may be granted without notice to
 7 the adverse party if it clearly appears from specific facts shown by affidavit or by the verified
 8 complaint that immediate and irreparable injury, loss, or damage will result to the applicant.”

9 *Klemmer v. Washington State Dep’t of Health*, No. C08-5135RJB, 2008 WL 11508839, at *1
 10 (W.D. Wash. Mar. 20, 2008). “To obtain this relief, the applicant must first inform the court of
 11 attempts made to give notice to the opposing party and reasons why notice should not be
 12 required.” *Id.* And Local Civil Rule 65(b)(1) adds that “[m]otions for [TROs] without notice to
 13 and an opportunity to be heard by the adverse party are disfavored and will rarely be granted.”
 14 LCR 65(b)(1).

15 In *Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423, 438–39 (1974), the Supreme
 16 Court explained that circumstances justifying an *ex parte* TRO are extremely limited:

17 The stringent restrictions imposed . . . by Rule 65 on the availability of *ex parte*
 18 [TROs] reflect the fact that our entire jurisprudence runs counter to the notion of
 19 court action taken before reasonable notice and an opportunity to be heard has
 20 been granted both sides of a dispute. *Ex parte* [TROs] are no doubt necessary in
 certain circumstances, but under federal law they should be restricted to serving
 their underlying purpose of preserving the status quo and preventing irreparable
 harm just so long as is necessary to hold a hearing, and no longer.

21 Ms. Holthaus’s motion does not meet this high bar. Ms. Holthaus alleges “extreme,
 22 ongoing retaliation, surveillance, digital interference, and fear for personal safety.” Dkt. 10 at 1.
 23 She explains that she has “noticed suspicious vehicles near home, being followed, and
 24 monitoring behavior.” *Id.* at 2. She also claims that she was “diagnosed with severe psychiatric

1 diagnosis with no evaluation. Hospitals PSPH and Multicare have not given full records or
2 substantial answers.” *Id.* While these allegations are concerning, Ms. Holthaus has not provided
3 the necessary facts or evidence for the Court to issue an *ex parte* TRO. Ms. Holthaus has not met
4 the standard for issuing emergency relief generally or an *ex parte* TRO in her motion. *See*
5 *Thompson v. Mukilteo Sch. Dist. No. 6*, No. 2:25-CV-00529-JNW, 2025 WL 987130, at *3
6 (W.D. Wash. Apr. 2, 2025) (denying TRO sought by pro se plaintiff for failure to satisfy Rule
7 65(b)’s “strict requirements”) (citation omitted).

8 **B. Ms. Holthaus is not entitled to service of the complaint by the US Marshal.**

9 Additionally, Ms. Holthaus further requested that the Court “waive service-related delays
10 or consider alternative methods” and “permit IFP service via US Marshals.” Dkt. 10 at 3. As to
11 the last request, Ms. Holthaus has paid the filing fee and is not proceeding IFP. Accordingly, she
12 is not entitled to IFP service by the United States Marshals under Federal Rule of Civil
13 Procedure 4(c)(3).

14 **C. Ms. Holthaus must file an amended complaint by May 6, 2025.**

15 As to the service concerns, the Court notes that it appears Ms. Holthaus’s complaint is
16 incomplete. Portions of the “Statement of Claim” section, Dkt. 4 at 5, are cut off and cannot be
17 viewed. To avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true,
18 to state a claim to relief that is plausible on its face,” and that “[a] claim has facial plausibility
19 when the plaintiff pleads factual content that allows the court to draw the reasonable inference
20 that the defendant is liable for the misconduct alleged[.]” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
21 (2009). Plaintiff may submit an amended complaint to the Court and serve the amended
22 complaint, along with the summonses issued by the Court (Dkt. 9) on Defendants to address this
23 problem. If her statement of the claim section exceeds the space provided on the pro se
24 complaint form, Ms. Holthaus may attach additional pages to the form to explain the nature of

1 her claims. Plaintiff must file her amended complaint no later than May 6, 2025. If Ms. Holthaus
2 does not file an amended complaint, the Court may issue an Order to Show Cause why the case
3 should not be dismissed.

4 **II. CONCLUSION**

5 For the reasons explained above:

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- 7 • Plaintiff's motion for emergency relief (Dkt. 10) is DENIED.
- 8 • Plaintiff's request for service by the US Marshals service is DENIED.
- 9 • Plaintiff shall file an amended complaint no later than May 6, 2025.

10 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
11 to any party appearing pro se at said party's last known address.

12 Dated this 22nd day of April, 2025.

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Tiffany M. Cartwright
United States District Judge